BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	M. A. Johnson Dist. 5, Map 93, Control Map 93, Parcel 40.15 Residential Property Tax Year 2007	)) Dickson County))

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$22,900	$242,300	$265,200	$66,300

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on March 3, 2008 in Charlotte, Tennessee. The taxpayer, M. A. Johnson, was represented by his mother, Juanita Johnson. The assessor of property, Gail Wren, represented herself.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 122 Reep Road in Dickson, Tennessee.

The taxpayer contended that subject property should be valued at significantly less than $265,200.[1] In support of this position, Ms. Johnson testified that in her opinion the 2007 countywide reappraisal program caused the appraisal of subject property to increase excessively both on an absolute basis and relative to neighboring homes. In addition, Ms. Johnson asserted that the excessiveness of the current appraisal is evident from the fact her son purchased subject property on May 30, 2001 for $140,000. Moreover, Ms. Johnson maintained that subject property experiences a dimunition in value because of the many nearby duplexes. Finally, Ms. Johnson noted that a nearby home is for sale for $205,000.

The assessor contended that subject property should remain valued at $265,200. In support of this position, four comparable sales were introduced into evidence. Moreover, Ms. Wren noted that the Dickson County Board of Equalization adjusted the appraisal of subject property by (1) conditioning the land 20% due to poor drainage; and (2) depreciating the home an additional 5% due to deferred maintenance.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic

[1] The appeal form was signed by M. A. Johnson and indicates a contended value of $229,000. Ms. Johnson stated that she did not know what subject property was worth, but did not believe it would sell for even $200,000.

and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at $265,200 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Dickson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

> The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .
>
> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

The administrative judge finds that the taxpayer did not introduce a single comparable sale into evidence. The administrative judge finds the listing referred to by Ms. Johnson cannot receive any weight because no evidence was introduced about the listing except for the price. Indeed, Ms. Johnson testified on cross-examination that she did not even know the square footage of the home.

The administrative judge finds that the May 30, 2001 purchase of subject home has no probative value for at least two reasons. First, the sale occurred almost six years prior to the relevant assessment date of January 1, 2007. Second, Ms. Johnson's testimony established that the seller was under duress. According to Ms. Johnson, the seller had been asking $220,000 for subject property. Ms. Johnson indicated that she decided not to pursue the matter after negotiating with the seller for a few weeks. However, the seller

subsequently called her and stated that he was in a "financial bind" and needed to sell subject property.

The administrative judge finds merely reciting factors that could cause a dimunition in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

> The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

> The taxpayer also claimed that the land value set by the assessing authorities. . .was too high. In support of that position, she claimed that. . .the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$22,900	$242,300	$265,200	$66,300

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 6th day of March, 2008.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Michael and Juanita Johnson
Gail Wren, Assessor of Property